

**Court of Appeals, State of Michigan**

**ORDER**

People of MI v Johnnie Holloway

Docket No. 260341

LC No. 00-007890

Michael J. Talbot  
Presiding Judge

E. Thomas Fitzgerald

Patrick M. Meter  
Judges

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The Court orders that the motion to waive fees is GRANTED for this case only.

The motion to remand is GRANTED.

In lieu of granting defendant's delayed application for leave to appeal, the order denying defendant's motion for relief from judgment is VACATED, and the matter is REMANDED for additional proceedings in accordance with *People v Moore*, 391 Mich 426, 441; 216 NW2d 770 (1974). Where the sentencing court for defendant's prior conviction has denied defendant's request for records, the prosecutor has the burden to establish the constitutional validity of the prior conviction. *Id.* The asserted jurisdictional defect is not subject to the good cause and actual prejudice requirements of MCR 6.508(D). *People v Carpentier*, 446 Mich 19, 28; 525 NW2d 450 (1994).

We do not retain jurisdiction.



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

JUL 28 2005

Date

*Sandra Schultz Mengel*  
Chief Clerk